

January 28, 2012

Via ECFS Ms. Marlene H. Dortch Secretary Federal Communications Commission 445 12th Street, SW Washington, DC 20554

> Re: Opening Comments of Community Competitors Coalition in GN Docket

No. 12-353

Dear Ms. Dortch:

Pursuant to 47 C.F.R. §§ 1.415 and 1.419, and on behalf of my client Community Competitors Coalition, Inc. ("C3"), please find attached opening comments of C3 regarding the petitions filed by AT&T and NTCA in GN Docket No. 12-353. These comments have been filed via ECFS. Please contact me with any questions.

Respectfully submitted,

Kristopher E. Twomey

Counsel to Community Competitors Coalition

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## Before the Federal Communications Commission Washington, DC 20554

In the Matter of	)	
	)	
AT&T and NTCA Petitions on Transition	)	GN Docket No. 12-353
from Legacy Transmission Platforms to	)	
Services Based on Internet Protocol	)	

# Comments of the Community Competitors Coalition

### I. <u>Introduction and Summary</u>

These comments are submitted in response to the Commission's request for comments on petitions filed by AT&T and the National Telecommunications Cooperative Association regarding the technological transition of networks. The Community Competitors Coalition ("C3") is pleased that the Commission is preparing to consider the issues raised by these petitions. C3 also applauds the Commission for establishing the Technology Transitions Policy Task Force to modernize policies to reflect the substantial changes both to the networks used and the services provided over those networks.

C3 agrees with some of the overall message provided in the two petitions. The Commission should focus on eliminating the policies and legacy regulations that do not provide any benefit to the public interest. The petitions go too far, however, in several regards. In the process of "modernization," the Commission should not eliminate the very

policies that have allowed competition to develop. In many cases, Commission policies have frustrated the ability for wireline competition to grow. The net result is that, for most of the country, these policies have created a broadband duopoly between the incumbent local exchange carriers and cable providers.

#### II. <u>Community Competitors Coalition</u>

The members of C3 represent an exception to many of the accepted rules of the telecommunications industry. The companies comprising C3 are members of their communities. They are not large, publicly traded corporations. Most of C3's members started providing dial-up Internet service in their hometowns during the mid-1990s. The companies then started competitive local exchange carriers and deployed DSL equipment in incumbent local exchange carrier ("ILEC") central offices providing broadband to local businesses and residences. They then began offering traditional POTS voice services and now offer VoIP. Many have and are in the process of deploying fiber networks to areas that will never be served by ILEC fiber projects.

In the cities and towns where they provide service, C3's members provide a competitive check to the ILEC/cable broadband duopoly. They have always been funded locally, through local investors, banks, and relied on cash flow to expand services. Through these neighborhood ties and frugal behavior, along with competitively-priced and reliable services, these companies have survived the ups and downs of the previous decade and are optimistic about their futures. They represent a quiet success story that has in many ways thrived despite, rather than because of, Commission policies.

#### III. General Principles

The petitions and related conversation regarding the profound transitions occurring in the telecommunications marketplace provide the Commission with an opportunity to eliminate the rules that are unnecessary and modify some to encourage efficiency and competition. The Commission should also be open to considering new policies or regulations designed to spur truly competitive advances in these new networks and services that traverse them that benefit consumers. This proceeding, and any rulemaking that may result, should not just be focused on methods to reduce the regulatory hassle and improve profitability for the ILECs. Instead, it should be about truly modernizing regulations to reflect the changes sweeping the industry.

C3 will be proposing bold suggestions to the Commission with the goal of truly modernizing telecommunications regulation and creating a competitively neutral playing field. In the meantime, C3 provides here are some simple, key points in response to the petitions:

- There is no imminent creation of an all IP network, therefore the "sunset" of the PSTN is a confusing misnomer. POTS is losing market share quickly, that is true as more convenient and advanced types of voice services replace POTS. But the PSTN can not be eliminated—IP it is vital for delivering existing services and will be for future applications as well. IP needs the PSTN;
- Changes in the market have rendered many regulations unnecessary. These should be eliminated when competitively-neutral. Many need to remain in place, and in some cases better enforced, due to ILEC monopoly control of the PSTN;

- The ILECs can not argue for the elimination of UNE lop unbundling in one
  proceeding, and then argue against regulated IP to IP interconnection. That leaves
  an unregulated bottleneck allowing for predatory pricing;
- AT&T's suggestion of "trials" to essentially eliminate section 251's unbundling obligations should be dismissed without further consideration;
- The ILECs' disdain for maintaining their existing copper plant is purely profitdriven rather than based on any alleged technological changes. Any changes to rules regarding that plant should be made by maintaining competitive access to the copper network at reasonable rates;
- The elimination of unbundling obligations would effectively kill the rapidly growing market of Ethernet over copper and reduce broadband options for small and medium-sized businesses;
- Businesses and consumer demand are driving the growth of networks capable of delivering higher bandwidth. ILECs do not need further regulatory protections or incentives to be persuaded to build such networks.;
- Policy changes of this magnitude should be conducted through the rulemaking process, not through the piecemeal exercise of forbearance authority, waivers, or declaratory rulings;
- The ability of state public utility commissions to assist and monitor the competitive deployment of these networks should not be eliminated;
- ILECs must continue to provide short term network change notifications so that CLECs can adjust their build-out of fiber networks in a timely fashion and/or transition their affected customers;

- Cellular-based wireless broadband<sup>1</sup> should not be considered a true competitive
  alternative for fixed line broadband access. Very few households and businesses
  rely solely on cellular-based services for broadband due to high cost and
  bandwidth caps;
- The effect on competitive alternatives available to consumers should be considered when ILEC calls for "market-driven" regulatory changes are considered. Usually, such suggestions are anti-competitive at their core.

### IV. Conclusion

C3 commends the Commission on seeking comment and considering action on these critical issues and others that will arise in such a proceeding. C3 urges the Commission to take careful consideration of all angles to the important debate to follow.

<sup>&</sup>lt;sup>1</sup> These cellular services are to be distinguished from fixed wireless broadband provided by wireless Internet service providers ("WISPs"). WISPs provide broadband in many areas that are either too remote, or too unprofitable, for ILEC or cable companies to deploy network.